

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Gavin	Team: Squad #1	CCRB Case #: 201807344	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/01/2018 2:00 PM, Wednesday, 09/05/2018	Location of Incident: in the vicinity of § 87(2)(b) [REDACTED] [REDACTED]	Precinct: 105	18 Mo. SOL 2/1/2020	EO SOL 2/1/2020	
Date/Time CV Reported Wed, 09/05/2018 12:50 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/05/2018 12:50 PM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
[REDACTED]	[REDACTED]	[REDACTED]			
<b>Witness(es)</b>	<b>Home Address</b>				
[REDACTED]	[REDACTED]				
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. POM Luis Benzant	06095	948657	105 PCT		
<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>		
1. POF Jessica Koehler	24502	957743	105 PCT		
<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>			
A.POM Luis Benzant	Abuse: On August 1, 2018, Police Officer Luis Benzant seized § 87(2)(b) [REDACTED] s property.	[REDACTED]			
B.POM Luis Benzant	Off. Language: On September 5, 2018, Police Officer Luis Benzant made remarks to § 87(2)(b) [REDACTED] based upon race.	[REDACTED]			
C.POM Luis Benzant	Discourtesy: On September 5, 2018, Police Officer Luis Benzant spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]			

### Case Summary

On September 5, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone.

On August 1, 2018, at approximately 2:00 p.m., § 87(2)(b) parked his vehicle on § 87(2)(b) PO Luis Benzant and PO Jessica Koehler, of the 105<sup>th</sup> Precinct, approached his vehicle and told § 87(2)(b) that they were going to tow his vehicle. PO Benzant called a rotation tow truck and towed § 87(2)(b)'s vehicle  
**(Allegation A: Abuse of Authority: § 87(2)(g))**

On September 5, 2018, at approximately 12:00 a.m., § 87(2)(b) walked outside of his apartment at § 87(2)(b) and observed PO Benzant and PO Koehler, writing a ticket for a double-parked car. PO Benzant saw § 87(2)(b) and allegedly said, "What's up, my nigger, what's up my nigger" and "I'm the head nigger of this area. I run this shit."  
**(Allegation B: Offensive Language: § 87(2)(g)) (Allegation C: Discourtesy: § 87(2)(g))**

There is cell phone video available for both incidents, and is found in IA #'s 21 and 23.

### Findings and Recommendations

**Allegation A: On August 1, 2018, Police Officer Luis Benzant seized § 87(2)(b)'s property.**

§ 87(2)(b) testified that, on August 1, 2018, at approximately 2:00 p.m., he parked his vehicle on § 87(2)(b) adjacent to the right-hand curb, and in front of a yellow school crossing sign. The vehicle was parked legally. § 87(2)(b) observed PO Benzant and PO Koehler parked across the street, and PO Benzant and PO Koehler approached § 87(2)(b)'s vehicle as he walked back to the parking lot where he worked. Three to four other marked NYPD vehicles arrived, and employees from the parking lot where § 87(2)(b) worked told § 87(2)(b) that the police surrounded the vehicle. § 87(2)(b) returned to the location where he parked the vehicle and PO Koehler asked him if the license plate was registered to this vehicle. § 87(2)(b) told PO Koehler that the plate was registered to another vehicle. PO Benzant and PO Koehler told § 87(2)(b) they would tow the vehicle. § 87(2)(b) told PO Benzant and PO Koehler that he would move the vehicle, but PO Benzant called a tow truck, which towed the vehicle and § 87(2)(b) § 87(2)(b) did not receive a summons (Board Review 01).

§ 87(2)(b) testified that she works with § 87(2)(b) for the parking company, and was present for the incident on August 1, 2018, at approximately 2:00 p.m. § 87(2)(b)'s vehicle was parked on § 87(2)(b) and the vehicle was parked adjacent to a parking sign, which stated that on Mondays, from 11:00 a.m. to 12:30 p.m., vehicles cannot park at that location. There were no other restrictions listed on this sign. In addition to this sign, there is a bus stop at the corner of § 87(2)(b), and § 87(2)(b) stated that § 87(2)(b)'s vehicle was parked approximately 20 feet from where the bus lane for this bus stop ends (Board Review 04).

PO Benzant testified that, on August 1, 2018, he and PO Koehler were traveling southbound on § 87(2)(b) when they observed § 87(2)(b) move his vehicle from the sidewalk and and park in the bus stop on § 87(2)(b). § 87(2)(b)'s vehicle was parked south of the bus stop, next to a sign which states that vehicles can park south of the sign, but not north of the sign, because of the bus stop. § 87(2)(b)'s rear vehicle bumper was adjacent to this sign, and the majority of the vehicle was parked north of the sign.] § 87(2)(b) then walked southbound away from the vehicle. PO Benzant and PO Koehler had several previous encounters with § 87(2)(b) and have repeatedly told him in the past that he cannot park his vehicle on the sidewalk. § 87(2)(b) saw PO Benzant and PO Koehler approach his vehicle, and PO Benzant and PO Koehler told him they would tow the car because the plates did not match the vehicle, the vehicle did not have insurance, and that they had told him not park the car on the sidewalk before. § 87(2)(b) said, "Write the fucking ticket, I don't care." PO Benzant called a tow truck and towed the vehicle. § 87(2)(f)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Koehler testified that, on August 1, 2018, § 87(2)(b)'s vehicle was parked in a 'No Standing' zone which is displayed at a bus stop at the intersection of § 87(2)(b) and § 87(2)(b). This 'No Standing' zone applies to the entire bus stop, which extends from 146<sup>th</sup> Drive south to another parking sign. § 87(2)(b)'s vehicle was parked next to this sign. Parking at a bus stop is considered a pedestrian hazard for pedestrians who are boarding or exiting a bus. § 87(2)(b) did not receive a summons and his vehicle was towed (Board Review 06).



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Video taken by § 87(2)(b) captures part of the incident. In the video, § 87(2)(b)'s vehicle is attached to the tow truck already, and the video does not capture where it was previously parked. (Board Review 07).

New York State Vehicle Traffic Law, Article 14, Section 402 states that no person shall operate, drive, or park a motor vehicle on the public highways of this state unless such vehicle shall have a distinctive number assigned to it by the commissioner, and that no person shall operate or drive a motor vehicle having displayed thereon number plates not proper for such vehicle, and that any violation of this section constitutes a parking violation (Board Review 08).

The Rules of the City of New York, Section 4-08 states that no person shall stand or park a vehicle other than an authorized bus in its assigned bus stop when any such stop has been officially designated and appropriately posted. Any illegally parked vehicle found parked at any time upon any public highway in the City may be immobilized in such a manner as to prevent its operation, and thereafter may be removed to a tow pound (Board Review 09 and Board Review 10).

§ 87(2)(g)

**Allegation B: On September 5, 2018, Police Officer Luis Benzant made remarks to § 87(2)(b) based upon race.**

**Allegation C: On September 5, 2018, Police Officer Luis Benzant spoke discourteously to § 87(2)(b)**

§ 87(2)(b) testified that, on September 5, 2018, he was leaving his apartment at § 87(2)(b) when he saw PO Benzant and PO Koehler issuing a summons to a double-parked vehicle outside of his building. When PO Benzant saw § 87(2)(b) he said, “What’s going on, my nigga? What’s up, my nigga, what’s up, my nigga, what’s up, my nigga? You good, my nigga? You good, my nigga? I’m the head nigga of this area. I run this shit”, and waved his hands. § 87(2)(b) did not speak to PO Benzant or PO Koehler, went back inside his building, and returned one minute later and took a video recording of PO Benzant and PO Koehler on his cell phone. § 87(2)(b) did not do anything other than leave his apartment building (Board Review 01, Board Review 02, and Board Review 03).

PO Benzant testified that he was writing a summons to a double-parked vehicle when § 87(2)(b) exited his vehicle and said, “There they go, there they go, starting their shit again. I’m recording your asses.” § 87(2)(b) took out his phone and recorded a video of PO Benzant and PO Koehler. PO Benzant denied saying, “What’s up, my nigger, “I’m the head nigger of this area,” or “I run this shit” to § 87(2)(b). PO Benzant stated that he did not say anything to § 87(2)(b). PO Benzant did not use the word “nigger” or “shit” to § 87(2)(b) in any phrase (Board Review 05).

PO Koehler testified that she could not recall this incident. PO Koehler was shown cell phone video footage that § 87(2)(b) took during the incident, but could not recall any additional details about the incident. PO Koehler denied that PO Benzant used the word, “nigger,” when speaking to § 87(2)(b). PO Koehler denied that PO Benzant made the statement, “I run this shit,” and denied that PO Benzant used any profanity when speaking to § 87(2)(b) (Board Review 06).



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§ 87(2)(b) provided a cell phone video taken on September 5, 2018, at approximately 12:00 a.m. This video captures part of the incident. In the video, PO Benzant and PO Koehler stand next to a double-parked vehicle, and PO Benzant writes something onto a pad. § 87(2)(b) walks down the sidewalk, approximately ten feet from PO Benzant and PO

Koehler. PO Benzant looks to the camera and says, “Sup”, and waves to the camera. PO Benzant does not say anything else (Board Review 10).

Patrol Guide Procedure 203-10 states that officers are prohibited from using discourteous or disrespectful remarks regarding another person’s ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability (Board Review 11).

Patrol Guide Procedure 203-09 states that officers must be courteous and respectful when speaking to civilians (Board Review 12).

PO Benzant and PO Koehler denied that PO Benzant used the words “nigger” or “shit” when speaking to § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### Civilian and Officer CCRB Histories

§ 87(2)(b)

- PO Luis Benzant has been a member-of-service for eight years and has been a subject in seven CCRB complaints and 12 allegations, none of which were substantiated. § 87(2)(b)

§ 87(2)(g)

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this case.
- A Freedom-of-Information Law request was submitted to the New York City Office of the Comptroller on January 2, 2019. This file will be updated upon receipt of this request (Board Review 14).

§ 87(2)(b) [§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature                      Print Title & Name                      Date